

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jimmy Lee Anthony Eisenhower,
Petitioner,
v.
M. Gutierrez,
Defendant.

No. CV-23-00252-TUC-JCH
ORDER

On January 19, 2024, Magistrate Judge Maria S. Aguilera issued a Report and Recommendation ("R&R"), recommending that the Court deny Petitioner Jimmy Eisenhower's habeas petition under 28 U.S.C. § 2241. (Doc. 9.) The R&R notified the parties they had fourteen (14) days from the date of the R&R to file any objections. (*Id.* at 3.) No objections have been filed.

It appears from the docket that the Clerk's Office mailed a copy of the R&R to Petitioner, but it was returned as undeliverable. (Doc. 10.) The Court's screening order warned Petitioner it was his responsibility to keep his address current, and failure to do so may result in dismissal. (Doc. 4 at 2.) "A party, not the district court, bears the burden of keeping the court apprised of any changes to his mailing address." *Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988); *see also* LRCiv 83.3 (stating an incarcerated petitioner must serve notice of change of address within seven days of the date of the change). The Court, therefore, will consider the R&R irrespective of the undeliverable mail.

If no objections are filed, the district judge is not required to review the magistrate

1 judge's R&R under any specified standard of review. *Thomas v. Arn*, 474 U.S. 140, 150
2 (1985). However, the district judge may conduct further review, "*sua sponte* or at the
3 request of a party, under a *de novo* or any other standard." *Id.* at 154.

4 The Court has reviewed and considered the Petition (Doc. 1), Warden Gutierrez's
5 Response and exhibits (Doc. 8), and the Magistrate's R&R (Doc. 9). The Court finds the
6 R&R is well-reasoned and adopts Magistrate Judge Aguilera's findings and conclusions.

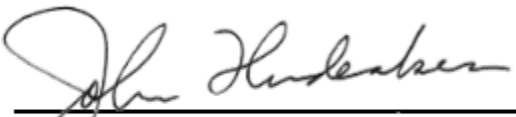
7 The Court need not issue a certificate of appealability in this matter. *See Harrison*
8 *v. Ollison*, 519 F.3d 952, 958 (9th Cir. 2008) (finding a § 2241 habeas does not require a
9 certificate of appealability "unless the section 2241 petition is a section 2255 petition in
10 disguise").

11 Accordingly, IT IS ORDERED:

- 12 1. The R&R is ADOPTED. (Doc. 9.)
13 2. Plaintiff's Petition Under 28 U.S.C. § 2241 for a Writ of Habeas Corpus is DENIED
14 and this matter DISMISSED. (Doc. 1.) The Clerk of Court shall docket accordingly.

15 Dated this 6th day of February, 2024.

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John C. Hinderaker
United States District Judge